one State predominate in the proposed new ninth circuit.

The majority acknowledged that California will undoubtedly predominate in the new ninth circuit. But the majority also insisted that this situation is not without precedent in the court of appeals. The fact is that California would predominate in the new Ninth Circuit Court of Appeals to a degree that is without precedent or parallel. According to the majority's own figures on the other circuits dominated by one State, New York contributes 87 percent of the caseload of the second circuit; Texas contributes only 69 percent of the fifth circuit's caseload. In the proposed new ninth circuit, however, 94 percent of the caseload would come from California.

That is an inordinate amount. It has never been done before in the history of this Nation. I would like to read one other section: ''To divide circuits in order to accommodate regional interests''—which is clearly what we are doing here. Let us not pretend. Every press release indicates that this is the reason for the split—regional interests, economic interests, criminal justice interests, the fact that a group of people do not like some decisions. I think that is true for everybody, for every appellate court decision that is made, there are some people who do not like the decision.

Former Chief Justice Warren Burger, rejected such a premise for dividing circuits as completely unacceptable, in testimony about an earlier version of this legislation. Chief Justice Burger stated:

I find it is a very offensive statement to be made, that a U.S. judge, having taken the oath of office, is going to be biased because of the economic conditions of his own jurisdiction.

Judge Charles Wiggins, Reagan appointee and former Republican Member of Congress, recently wrote a letter criticizing the political motivations behind the current proposal:

The majority report . . . contains the misleading statement that the recommended division of the ninth circuit is not in response to ideological differences between judges from California and judges from elsewhere in the circuit. I strongly disagree that such a motive does not, in fact, underlie the proposal for the change. Such a regionalization of the circuits in accordance with State interests is wrong. There is one Federal law. It is enacted by the Congress, signed by the President, and is to be respected in every State in the Union. The law in Montana and Washington is the same law as exists in Maine and Vermont. It is the mission of the Supreme Court to maintain one consistent Federal law. I do hope that you will challenge the supporters of the revision to explain the reasons justifying their proposal.

So, we know that with no public hearing on this proposal, we have an unprecedented, unparalleled proposal to split a court, giving the big weight to one State in that court, over 90 percent, and to do a split in a way that the judges are not fairly allocated. California, Hawaii, Guam, and the Northern Marianas Islands, with 62 percent of the caseload, will have far below the number of judges required to handle that, and seven States with 38 percent of the caseload would have a better allocation of judges.

This is a very serious proposal and it is being done in a way that is of very deep concern to this Senator: In an amendment found twice to be unrelated to the legislation contemplated by this body at that time—in a way that most certainly is going to create a problem in terms of the people of this side ever agreeing to a unanimous consent-request again.

So, Mr. President and Members of the Senate, I hope there would be due consideration given to these arguments. I think this is a very serious situation indeed, and I am hopeful that cooler heads will prevail.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my colleague from Nevada for his indulgence while a make a brief statement.

CLINTON POLICY FAILURE IN HAITI

Mr. McCAIN. Mr. President, today at Fort Polk, President Clinton welcomed our troops back from Haiti, and commended them for a job well done. It was appropriate for the President to do so. As they always do, U.S. forces exhibited a high degree of professionalism and courage in the performance of their mission.

However, it is quite another matter to suggest that the restoration of the Aristide regime was a worthwhile mission for U.S. forces to undertake in the first place. The Clinton administration has made Haiti a test case for their foreign policy. But what its Haiti policy has clearly revealed is that the administration's foreign policy is based on international social work, not on defending United States' interests.

Dozens of political and extra-judicial killings occurred after Aristide was returned to power, and are continuing under the Preval regime. There is credible information available to the President from the Federal Bureau of Investigation and the Department of State that indicates the involvement of officials in the Aristide and Preval governments in the planning, execution, and coverup of some of these murders.

Last year, an amendment authored by Senator DOLE passed Congress, requiring the President to certify the Haitian Government's progress in investigating political murders before the United States provided Haiti with anymore aid. But President Clinton could not certify that Haiti was investigating political murders allegedly committed by members of the Haitian Government for a very simple reason—the Haitian Government has steadfastly declined to undertake such investigations.

Since he could not certify, President Clinton used his authority to waive the Dole conditions, saying—disingenuously, I believe—that the waiver was ''necessary to assure the safe and timely withdrawal of United States forces from Haiti.''

Earlier this month, at least seven more Haitian citizens were killed apparently by members of the United States-hand picked, United States-trained, and United States-equipped Haiti national police. The victims were shot at point blank range. Witnesses report that they saw policemen do the killings. Mr. President, 24 hours after the shootings, the bodies had not been picked up, and no member of the Haiti judicial system had made an official report. The UN/OAS Mission has opened an inquiry into the killings, but not any member or agency of the Government of Haiti.

It is a sad commentary on the administration's policy that after the United States has spent $2 billion, and the men and women of the U.S. Armed Forces endured hardship and danger, the government they were sent to restore and protect has participated in death squads, and done so with impunity.

As a final act of gratitude, President Aristide recognized the government of the man who recently ordered the murder of American citizens—Fidel Castro.

The Clinton administration's policy in Haiti is a failure. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3551

Mr. REID. Mr. President, I would like to discuss, again, the ruling of the Chair. The Parliamentarian has ruled that an amendment is not relevant. A unanimous-consent request was entered allowing the calendar item to go forward, as set forth on page 3 of Monday's Calendar of Business.

A number of relevant amendments were allowed to be offered under the confines of the unanimous-consent request. Every Senator here agreed to this. Every Senator said only relevant amendments could be offered.

It seems rather unusual now that in spite of a unanimous-consent agreement—that does not mean 99 percent of the Senators, that does not mean 99 Senators, that means every Senator agreed to this unanimous-consent request—it seems rather unusual now we have some Senators who say that the referee, the Parliamentarian, ruled that this amendment is not relevant, ''But I'm going to do it my way anyway. I really didn't mean it when I agreed to that unanimous-consent request.''

For this body to rule otherwise—that is, to overrule the Parliamentarian—would be putting not only the Senate but certainly the Chair in a very, very awkward position, because it is clear that this amendment is not in order.

Mr. President, if the Parliamentarian is overruled, it would be like playing a